

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 13-CR-00291-06,14,15-BCW
)	
HARRY NAJIM (06),)	
PAYAM KHEIMEHDOOZ (14),)	
MOHSEN ROSTAMI (15),)	
)	
Defendants.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

PENDING CHARGE: On August 13, 2013, the Grand Jury returned a forty-four count indictment against seventeen individuals and one company. Three defendants remain for trial, Harry Najim, Payam Kheimehdooz and Mohsen Rostami, all of whom are charged in Count 1 of the Indictment with conspiracy to commit wire fraud and contraband cigarette trafficking in violation of 18 U.S.C. § 1343 and 18 U.S.C. § 2341-2346. Mr. Najim is also charged in Count 44 with a money laundering conspiracy in violation of 18 U.S.C. § 1956(h). Mr. Kheimehdooz is charged Counts 11-15 and Mr. Rostami in Counts 13-15 with knowingly shipping, transporting, receiving, selling, distributing and purchasing in excess of 10,000 contraband cigarettes on various days in violation of 18 U.S.C. §§ 2342(a), 2344(a) and 2.

The following matters were discussed and action taken during the pretrial conference:

TRIAL COUNSEL:

Government: Mr. Paul Becker and Mr. Justin Davids
Case Agents: ATF Special Agent Tedde Horton, IRS Criminal Investigator Karl Bolte, and Paralegal Giovan Aloisio
Defense: Mr. Craig Shultz and Mr. Michael Shultz for Harry Najim
Ms. Angela Williams for Payam Kheimehdooz
Ms. Ronna Holloman-Hughes for Mohsen Rostami

OUTSTANDING MOTIONS (as of the time of the pretrial conference):

Harry Najim

1. Harry Najim's Motion to Identify and Determine Admissibility of Alleged Co-conspirator Statements and Request for Pre-trial Hearing. (Doc. # 200);
2. Defendant Harry Najim's Motion for Continuance (Doc. # 285);

3. Defendant Harry Najim's Motion in Limine to Exclude Non-Relevant Statements (doc. # 301).

Mohsen Rostami

1. Motion for Continuance (Doc. # 284);
2. Motion in Limine (Doc. # 313).

Government Motions

1. Government's Motion to Strike in Part Defendant Rostami's Witness List (Doc. # 296);
2. Government's Motion in Limine to Preclude Evidence of OIG Report (Doc. # 305).

Motions Filed Following the Pretrial Conference

1. Government's Motion in Limine to Exclude Expert Testimony (Doc. # 324);
2. Government's Motion to Allow Recall of a Witness (Doc. # 329);
3. Defendant Harry Najim's Motion to Produce Bank Records (Doc. # 337).

TRIAL WITNESSES:

Government: 20 witnesses with stipulations;
Defendant Najim: 5-6 witnesses including the defendant;
Defendant Kheimhdooz: 2 witnesses including the defendant;
Defendant Rostami: 2 witnesses including the defendant.

TRIAL EXHIBITS

Government: 450 exhibits plus subparts;
Defendant Najim: no exhibits other than those on the government's exhibit list;
Defendant Kheimhdooz: 50, but only 3 that are not part of the government's exhibits;
Defendant Rostami: 1 in addition to the government's exhibits.

DEFENSES: General denial

POSSIBLE DISPOSITION:

(X) Definitely for trial; () Possibly for trial; () Likely a plea will be worked out

TRIAL TIME: 7 days

Government's case including jury selection: 5 days
Defendant Najim: 1 day;
Defendant Kheimhdooz: ½ day or less;
Defendant Rostami: ½ day or less.

STIPULATIONS: The government has already proposed stipulations including one concerning the accuracy of the tapes and transcripts to be offered at trial.

UNUSUAL QUESTIONS OF LAW: Mr. Najim will offer a jury instruction on the duties and responsibilities of a lawyer. Defendants Kheimhdooz and Rostami will offer an instruction concerning the meaning of the word knowingly.

FILING DEADLINES:

Witness and Exhibit List

Government: Friday before the pretrial conference

Defense: Friday before the pretrial conference

Counsel are requested to list witnesses in alphabetical order on their witness list.

Exhibit Index, Voir Dire, Jury Instructions: Noon, Wednesday, February 18, 2015,
(subject to other instructions by Judge Wimes in a subsequent conference)

Please Note: Jury instructions must comply with Local Rule 51.1

TRIAL SETTING: Criminal jury trial docket commencing February 23, 2015.

IT IS SO ORDERED.

/s/ SARAH W. HAYS

SARAH W. HAYS

UNITED STATES MAGISTRATE JUDGE